

# State of Utah Drug and Alcohol Testing Policy

## 1.1 Policy Statement

The State of Utah is committed to provide a workplace where employees of the state and the general public can safely conduct business. It is the policy of the State of Utah to provide a work environment that is free from the unlawful manufacture, distribution, sale, dispensation, possession, or use of controlled substances or alcohol.

## 1.2 Compliance with Federal/State Laws and Regulations

This policy has been written to comply with current federal laws and regulations, state law and Department of Human Resource Management (DHRM) rules which relate to a drug-free workplace, drug and alcohol testing, drug abuse and alcohol misuse, employee conduct, corrective action and discipline. A listing of applicable laws, rules, and regulations can be found in Appendix A.

## 1.3 Scope of Policy

This policy applies to all state employees. This policy also applies to final candidates under consideration for safety sensitive positions. Employment with the State of Utah is conditioned upon compliance with this policy.

Employees who hold positions designated by DHRM as safety sensitive are required to comply with a higher standard. These employees are subject to random drug and alcohol testing as authorized by DHRM. Safety sensitive positions fall under the following categories:

- < Positions where an employee is subject to drug and alcohol testing under the Omnibus Transportation Employee Testing Act of 1991. Including but not limited to: commercial driver licensed positions (CDL), aviation maintenance, and pilots.
- < Positions that require an employee to carry or have access to firearms or class A explosives. Including but not limited to security officers, avalanche forecasters, and park rangers.
- < Positions involved in work that requires an employee to have access to controlled substances. Including but not limited to medical doctors, dentists, and registered nurses.

- < Positions where the actions of an employee directly impact the safety and welfare of the general public, such as: radio dispatchers, and traffic signal operators.
- < Positions that require an employee to have any level of Peace Officers Standards and Training (P.O.S.T.) certification. Including but not limited to law enforcement and correctional officers.

#### **1.4 Prohibited Behaviors**

Failure to comply with any aspect of this policy, including, but not limited to the following behaviors, is prohibited and may result in disciplinary action up to and including termination:

- < Unlawful manufacture, distribution, sale, dispensation, possession, or use of any controlled substance or alcohol during working hours, on state property, while operating a state vehicle at any time or any other vehicle while on duty, except where legally permissible.
- < Refusal to submit to a drug and/or alcohol test without a medically verifiable reason, as determined by the states Medical Review Officer (MRO).
- < Refusal to contact and cooperate with the state's MRO.
- < Refusal to cooperate with a technician administering a drug or alcohol test.
- < Impeding a drug and/or alcohol investigation.
- < Failure to appear for a scheduled drug and/or alcohol test without a reasonable and verifiable explanation.
- < Substitution of, adulteration of, or tampering with a drug and/or alcohol test sample.
- < Falsifying or attempting to falsify a drug and/or alcohol test sample or test results.
- < Refusal to report for an assessment with a substance abuse professional (SAP). Refusal to enter an agreed upon rehabilitation program.
- < Refusal or failure to successfully complete a drug and/or alcohol rehabilitation program.
- < Failure to report a drug conviction to agency head within five (5) calendar days in accordance with DHRM rule 477-14-2 (9).
- < Using alcohol before being tested or within eight (8) hours of an accident, whichever comes first. (For any employee required by this policy to be tested for alcohol after an accident.)
- < Violation of last chance or return to work agreement
- < Use of alcohol after an accident and before being tested, if an alcohol test is required.

## 1.5 Drug and Alcohol Testing

Under this policy, final candidates for safety sensitive positions and all employees are subject to drug and alcohol testing for, but not limited to: alcohol, cannabis (marijuana), cocaine, opiates, phencyclidine (PCP), amphetamines and the metabolites of these drugs. All sample collection and testing will comply with and/or mirror applicable Federal standards. Final candidates for safety sensitive positions and all employees are subject to one or more of the following tests:

- < **Pre-employment testing.** Pre-employment drug tests will be given to final candidates for safety sensitive positions and employees transferring from non-safety sensitive positions, to safety sensitive positions. This includes drugs only. Pre-employment tests for alcohol will not be given.
- < **Critical Incident testing.** Critical Incident drug and/or alcohol testing applies to all employees .
- < **Reasonable suspicion testing.** Reasonable suspicion drug and/or alcohol testing applies to all employees.
- < **Post-accident testing.** Post accident drug and/or alcohol testing applies to all employees.
- < **Random testing.** Random drug and/or alcohol testing applies to employees in positions designated by DHRM as safety sensitive and authorized by DHRM for random testing.
- < **Return-to-duty testing.** Return to duty drug and/or alcohol testing applies to all employees who have completed a substance abuse treatment program. This includes drug and/or alcohol.
- < **Follow up testing.** Follow up drug and/or alcohol testing is ongoing testing, conducted on an unannounced basis, for any employee who has previously tested positive for drugs and/or alcohol.

Agencies may elect to randomly test safety sensitive positions not mandated by federal regulation. The random testing rate for these positions will be 25% annually for drug testing and 10% annually for alcohol testing. If an agency elects to random test its safety sensitive positions, it must test all safety sensitive positions in the agency.

## 1.6 Employee Assistance

Employees with issues related to drugs and/or alcohol use or abuse are encouraged to seek assistance through private services or department employee assistance programs.

## 1.7 Notification of Convictions

Employees must notify their supervisor within five (5) calendar days when convicted under federal or state criminal statute regulating the manufacture, distribution, dispensation, possession, or use of a controlled substance.

## **1.8 Positive Test Results**

- < The State will use the same cut off levels for positive drug and alcohol tests as set forth by the applicable federal agency. For non- safety sensitive employees the cut off levels for positive drug tests will mirror DOT regulations cut off levels. Blood alcohol concentrations for positive alcohol tests will be .08 for non-safety sensitive employees.
- < It is a violation of this policy to have a MRO verified positive test for but not limited to: marijuana, cocaine, opiates, phencyclidine (PCP), amphetamines and the metabolites of these drugs.
- < It is a violation of this policy to have a positive alcohol test at or above the established concentration levels.

## **1.9 DHRM Responsibilities**

- < Identify a state drug program coordinator (DPC) to coordinate and monitor the state's drug and alcohol program.
- < Negotiate and secure contracts for collection, lab and medical review services.
- < Create and make appropriate changes to the state's drug and alcohol policy.
- < Propose changes to legislation as needed.
- < Disseminate policy, procedures, and information to agencies.
- < Designate jobs and/or positions as safety sensitive.
- < Provide the collection agency with updated lists of individuals subject to random drug and alcohol testing.

## **1.10 Agency Responsibilities**

- < Enforcement of drug and alcohol testing policy and procedures.
- < Inform all employees in safety sensitive positions of the existence and enforcement of this policy.
- < Inform all final candidates for employment in safety sensitive positions of the existence and enforcement of this policy.
- < Notify DHRM of intention to initiate random testing of non-regulated safety sensitive positions at least 45 days prior to initial implementation.
- < Prior to implementation of general safety sensitive drug and alcohol testing, the agency shall contact contracted collection provider
- < Notify safety sensitive employees of random testing program at least 30 days prior to initial implementation.

- < Identification of an agency drug program coordinator (DPC) and/or site coordinator(s): The agency DPC will notify the state DPC of changes in DPCs or site coordinators.
- < Determine the appropriate corrective action and/or discipline for employees who violate this policy.
- < Coordinate rehabilitation, return to duty and/or follow-up testing of agency employees as needed.
- < Ensure record keeping is maintained in accordance with applicable state and federal regulations.
- < Provide ongoing training to agency staff as required by applicable state and federal regulations.
- < Submit requests and documentation to DHRM when changes in duties necessitate a change in safety sensitive status of any position.
- < Enter and maintain applicable employee records in the centralized state human resources database.

### **1.11 Unique Situations**

- < The Department of Human Resource Management recognizes that situations may arise which are not specifically covered by this policy and program. These will be addressed on a case-by-case basis. Agencies may develop their own policy to address specific practices, where latitude is given, provided that any such policy conforms with state and federal laws and regulations. Agency policies may not be less restrictive than this policy.
- < Any questions concerning this policy should be directed to the agency drug program coordinator or the state drug program coordinator.